

# Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala

## ABSTRACT<sup>1</sup>

*This case stems from the leak of a military diary (“Diario Militar”), in which Guatemalan military personnel diligently listed and chronicled the arbitrary arrest, disappearance, and extrajudicial execution of 183 persons between August 1983 and March 1985. The Diary was published in the United States by Harpers Magazine in 1999. The judgment of the Court concerned twenty-six of those victims. Although the State partially acknowledged international responsibility for the violations, it has resisted complying with the decision of the Court.*

## I. FACTS

### A. Chronology of Events

**From 1962 to 1996:** Guatemala experiences an ongoing civil war in which State authorities seek to identify and eliminate all individuals who may be associated with guerrilla organizations, who identify with communist ideologies or belong to communist groups, or who disapprove of the government.<sup>2</sup> Under this “National Security Doctrine,” over two hundred thousand people are disappeared or killed.<sup>3</sup>

#### 1. Events pertaining to Mr. José Miguel Gudiel Álvarez

**September 22, 1983:** Twenty-three-year-old Mr. Gudiel Álvarez, whose family the State considers to be subversive to the government, is living in Guatemala City and working as a carpenter.<sup>4</sup> The State alleges that he is a student and reporter who is a deserting member of the guerilla or-

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1. Kathryn Benson, Author; Justine Schneeweis, Editor; Hayley Garscia, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 253, ¶ 54 (Nov. 20, 2012).

3. *Id.*

4. *Id.* ¶ 70.

ganization "Guerilla Front No. 6" and goes by the alias, "Rigoberto Álvarez Tobar."<sup>5</sup>

Early in the morning, armed men in jeeps arrive at Mr. Gudiel Álvarez's home in the Isabel La Católica Park neighborhood of Guatemala City and break into the house.<sup>6</sup> The individuals beat both Mr. Gudiel Álvarez's companion and the homeowner, and steal a number of valuables from the home.<sup>7</sup> Attempting to escape, Mr. Gudiel Álvarez climbs to the roof, where the armed individuals subsequently wound his leg and capture him.<sup>8</sup>

Mr. Gudiel Álvarez's family members feel threatened and harassed by the authorities and, as a result, abandon their home in Santa Lucía.<sup>9</sup> Although the family chooses not to pursue Mr. Gudiel Álvarez's disappearance in court, it does report his disappearance to human rights organizations in both the United States and the United Nations.<sup>10</sup>

## 2. Events pertaining to Mr. Orencio Sosa Calderón

**October 24, 1983:** Mr. Sosa Calderón is a thirty-nine-year-old elementary school teacher and doctor working at both a hospital and the University of San Carlos of Guatemala.<sup>11</sup> Mr. Sosa Calderón operates on two gunshot victims while working in the hospital.<sup>12</sup> While the victims are under anesthetic, four men arrive and attempt to take the victims with them.<sup>13</sup> When Mr. Sosa Calderón refuses, demanding a court order, the men threaten him.<sup>14</sup>

**October 25, 1983:** Four men armed with machine guns stop Mr. Sosa Calderón near the hospital and force him out of his car and into a white truck without license plates.<sup>15</sup> Witnesses testify that shots are fired.<sup>16</sup> The men also remove the gunshot victims from the hospital.<sup>17</sup>

In the *Diario Militar*, the State alleges that Mr. Sosa Calderón is a member of the Guatemalan Communist Party (*Partido Guatemalteco*

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5. *Id.*

6. *Id.* ¶ 71.

7. *Id.*

8. *Id.*

9. *Id.* ¶ 72.

10. *Id.*

11. *Id.* ¶¶ 73–74.

12. *Id.* ¶ 74.

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

*del Trabajo – Partido Comunista*, “PGT-PC”) and a founder of the medical committee within the party.<sup>18</sup> The State further alleges that Mr. Sosa Calderón assisted foreign reports by filming guerilla organizations and that he was captured in Chimaltenango en route to Antigua Guatemala on October 25, 1983.<sup>19</sup> The State alleges that he resisted capture and fired gunshots at the authorities.<sup>20</sup> Lastly, the *Diario Militar* reports that Mr. Sosa Calderón is executed on February 7, 1984.<sup>21</sup> Mr. Sosa Calderón’s family states that the picture in this entry of the *Diario Militar* is not of Mr. Sosa Calderón.<sup>22</sup>

**Late 1983:** Armed men follow Mr. Sosa Calderón’s wife and three daughters while they move homes in Guatemala City.<sup>23</sup> The family reports this to authorities, the media, and the courts, and moves to Mexico for safety.<sup>24</sup>

### 3. Events pertaining to Mr. Oscar Eduardo Barillas Barrientos

**December 21, 1983:** Thirty-five-year-old Mr. Barillas Barrientos is an elementary school teacher living in Guatemala City.<sup>25</sup> He makes documentaries on various social movements and has ties to both the Patriotic Youth and the military committee of the Guatemalan Labor Party.<sup>26</sup> He is also in charge of the Guatemalan Labor Party newspaper, *Claridad*.<sup>27</sup>

Mr. Barillas Barrientos leaves his house to go see a sporting event, but he never arrives.<sup>28</sup> His family reports his disappearance to both the authorities and the courts.<sup>29</sup>

The *Diario Militar* later reports that Mr. Barillas Barrientos is responsible for the newspaper *Claridad*, and was captured as a result.<sup>30</sup> It reports that Mr. Barillas Barrientos is executed on January 21, 1984.<sup>31</sup>

**July 1984 – May 2004:** Mr. Barillas Barrientos’s family files several

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18. *Id.* ¶ 73.

19. *Id.*

20. *Id.*

21. *Id.*

22. *Id.* ¶ 73, n.77.

23. *Id.* ¶ 75.

24. *Id.*

25. *Id.* ¶ 77.

26. *Id.*

27. *Id.*

28. *Id.* ¶ 78.

29. *Id.*

30. *Id.* ¶ 77.

31. *Id.*

applications for habeas corpus and initiates an investigation with the Ombudsman's Office, which are all unsuccessful.<sup>32</sup>

#### 4. Events pertaining to Mr. José Porfirio Hernández Bonilla

**December 20, 1983:** Thirty-five-year-old Mr. Hernández Bonilla is a farmer and married father of three, Marlyn Carolina, Juan Carlos, and José Geovany Hernández Escobar.<sup>33</sup> He was previously a member of the Guatemalan Labor Party and an alleged member of the Guatemalan Army of the Poor.<sup>34</sup> He seeks refuge in a safe house in Jalapa, where he is captured.<sup>35</sup> He is last seen on December 20, 1983.<sup>36</sup> Before his capture, the authorities question Mr. Hernández Bonilla's wife, Ms. Reyna de Jesús Escobar Rodríguez, and her brother about Mr. Hernández Bonilla's whereabouts and inform them that he is a "dead man."<sup>37</sup> The authorities also take his motorcycle.<sup>38</sup> Ms. Escobar Rodríguez does not file a report or a habeas corpus petition because she is afraid the authorities will search further for her husband.<sup>39</sup> She moves to Guatemala City for safety and later brings her children.<sup>40</sup>

The *Diario Militar* later states Mr. Hernández Bonilla's capture date as January 7, 1984.<sup>41</sup> It further reports that he is executed on January 21, 1984.<sup>42</sup>

#### 5. Events pertaining to Mr. Octavio René Guzmán Castañeda

**January 17, 1984:** Mr. Guzmán Castañeda is a twenty-one-year-old student who is captured at a medical clinic in Guatemala City.<sup>43</sup> His name is included on the Amnesty International list of disappearances.<sup>44</sup>

The *Diario Militar* states that Mr. Guzmán Castañeda was captured on January 17, 1984, and alleges that he is a member the military squad of the Guatemalan Army of the Poor.<sup>45</sup> The *Diario Militar* reports

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32. *Id.* ¶¶ 79–80.

33. *Id.* ¶¶ 81, 312.

34. *Id.*

35. *Id.* ¶ 82.

36. *Id.*

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

41. *Id.* ¶ 81.

42. *Id.*

43. *Id.* ¶¶ 83–84.

44. *Id.* ¶ 84.

45. *Id.* ¶ 83.

that Mr. Guzmán Castañeda is executed on July 2, 1984.<sup>46</sup>

**July 1984 – December 1995:** Mr. Guzmán Castañeda’s family files several applications for habeas corpus, which are all unsuccessful.<sup>47</sup>

#### 6. Events pertaining to Mr. Álvaro Zacarías Calvo Pérez

**January 20, 1984:** Mr. Calvo Pérez is a twenty-six-year-old elementary school teacher and law student at the University of San Carlos of Guatemala.<sup>48</sup> He is married and has a son.<sup>49</sup> Mr. Calvo Pérez is also a member of the Law Students’ Association.<sup>50</sup>

Mr. Calvo Pérez picks up his son from his mother-in-law’s house and goes to visit a friend at the hospital.<sup>51</sup> Afterward, while en route to a car mechanic, authorities stop Mr. Calvo Pérez, shoot him in the leg, tie him up, and abduct him and his son.<sup>52</sup> Later that day, an unidentified man brings Mr. Calvo Pérez’s son to his grandmother’s house and states that Mr. Calvo Pérez was in an accident and is in the General Hospital of the Guatemalan Social Security Institute.<sup>53</sup> Mr. Calvo Pérez’s family looks for him at that hospital, but hospital staff members inform them that Mr. Calvo Pérez was never checked into the hospital.<sup>54</sup> The family searches hospitals, mortuaries, prisons, and police stations to no avail.<sup>55</sup>

The *Diario Militar* states that Mr. Calvo Pérez is a member of the Guatemalan Army of the Poor and is associated with members of other guerrilla organizations.<sup>56</sup> It states that he is captured at the General Hospital of the Guatemalan Social Security Institute on January 20, 1984, and that he is executed on February 7, 1984.<sup>57</sup>

**January 21, 1984 – 2006:** Mr. Calvo Pérez’s wife, Mrs. Ana Dolores Monroy Peralta, reports her husband’s disappearance to the authorities, who initiate an investigation, but obtain no results.<sup>58</sup> Mrs. Monroy Peral-

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46. *Id.*

47. *Id.* ¶ 84.

48. *Id.* ¶ 85.

49. *Id.*

50. *Id.*

51. *Id.* ¶ 86.

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.* ¶ 85.

57. *Id.*

58. *Id.* ¶ 87.

ta continues to search records and mortuaries for her husband.<sup>59</sup>

#### 7. Events pertaining to Mr. Victor Manuel Calderón Díaz

**January 23, 1984:** Mr. Calderón Díaz is twenty-six years old, a tailor and carpenter, and married with three children.<sup>60</sup>

Mr. Calderón Díaz goes to the store to purchase a piñata and cake for his child's birthday.<sup>61</sup> Armed individuals point a machine gun at him, force him into a car, and drive him away.<sup>62</sup>

The *Diario Militar* states that Mr. Calderón Díaz is a "combatant" fighting in El Salvador who is captured at La Castellana Avenue and Eighth Street in Guatemala City on January 23, 1984.<sup>63</sup>

The *Diario Militar* also contains a photograph of a man who matches the description of Mr. Calderón Díaz, but the entry refers to a Mr. Hector Manuel Méndez Carballo.<sup>64</sup> This entry states that Mr. Méndez Carballo is a combatant fighting in El Salvador, who is captured on January 23, 1984.<sup>65</sup> The entry further states that Mr. Méndez Carballo traveled to El Salvador on February 3, 1984, and that "THIS ONE was not captured; the name corresponds to the photo."<sup>66</sup> The *Diario Militar* does not indicate that either Mr. Calderón Díaz or Mr. Méndez Carballo is executed.<sup>67</sup>

A memorandum from the Historical Archive of the National Police describes an operation on January 23, 1984, between 8:00 a.m. and 12:00 p.m., in which National Police conduct a random inspection at La Castellana Avenue and Eighth Street.<sup>68</sup> The Peace Secretariat later states that the similarities between the date and location of the inspection and Mr. Calderón Díaz's disappearance suggest that the inspection was more than a routine vehicle inspection.<sup>69</sup>

Mr. Calderón Díaz's daughter later testifies that she has heard various rumors that her father has been spotted in a number of different locations and that he was granted asylum in Canada.<sup>70</sup> She further testifies

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59. *Id.* ¶¶ 87–88.

60. *Id.* ¶ 89.

61. *Id.* ¶ 90.

62. *Id.*

63. *Id.* ¶ 89.

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.* Because the *Diario Militar* entry does not indicate whether Mr. Calderón Díaz was executed, he may have been released and sent to El Salvador.

68. *Id.*

69. *Id.*

70. *Id.* ¶ 90.

that her family did not search for him out of fear for their lives.<sup>71</sup>

#### 8. Events pertaining to Mr. Amancio Samuel Villatoro

**January 30, 1984:** Forty-seven-year-old Mr. Villatoro is Secretary General of the labor union at the Adams Chewing Gum factory.<sup>72</sup> He is married with four children.<sup>73</sup> Mr. Villatoro is also a member of the National Workers Confederation, the National Trade Union Confederation, and the Rebel Armed Forces of Guatemala.<sup>74</sup>

Mr. Villatoro leaves home but does not come back for lunch.<sup>75</sup> His wife waits for him at the bus stop that evening, and during her wait, approximately eight men with red scarves around their faces approach her in two cars and beat her.<sup>76</sup> Before they leave, they take from her a briefcase containing money and her husband’s paperwork, threaten to kill her and her family, and tell her not to file a complaint.<sup>77</sup>

The *Diario Militar* later states that Mr. Villatoro is a member of the Rebel Armed Forces and the National Workers Confederation who is in league with “Garcia Marquez” in Mexico.<sup>78</sup> The entry confirms that Mr. Villatoro is captured on January 30, 1984<sup>79</sup> and executed on March 29, 1984.<sup>80</sup>

**After January 30, 1984:** Mr. Villatoro’s family searches hospitals, mortuaries, and prisons, reports his disappearance to the National Police, and files multiple applications for writs of habeas corpus.<sup>81</sup>

**February 8, 1984:** A judge attempts to execute a writ of habeas corpus from the National Police but is unsuccessful.<sup>82</sup>

**November 22, 2011:** The Guatemalan Forensic Anthropology Foundation identifies remains uncovered in 2003 in a grave in Chimaltenango, Guatemala, as Mr. Villatoro.<sup>83</sup>

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71. *Id.*

72. *Id.* ¶ 91.

73. *Id.*

74. *Id.*

75. *Id.* ¶ 92.

76. *Id.*

77. *Id.*

78. *Id.* ¶ 91.

79. *Id.*

80. *Id.*

81. *Id.* ¶ 93.

82. *Id.*

83. Damien Cave, “Guatemala: War Victims Found.” NYTIMES.COM (Nov. 22, 2011),

### 9. Events pertaining to Mr. Manuel Ismael Salanic Chiguil

**February 13, 1984:** Mr. Salanic Chiguil is an eighteen-year-old student about to receive his teaching degree who wants to pursue a career in medicine.<sup>84</sup>

Through the evening of February 13 and into the morning of February 14, 1984, in Ciudad Real, armed men wearing the uniforms of the Special Operations Battalion of the National Police arrive at Mr. Salanic Chiguil's home and break down a fence with one of their cars.<sup>85</sup> Several of them scale the roof and some break down the front door of the home.<sup>86</sup> Once inside the home, the men interrogate Mr. Salanic Chiguil using electric shocks and force him from the house.<sup>87</sup> Before leaving, the men threaten Mr. Salanic Chiguil's family so they do not report these events.<sup>88</sup>

The *Diario Militar* reports that Mr. Salanic Chiguil is a member of the Guatemalan Army of the Poor and is captured on February 14, 1984 in Ciudad Real.<sup>89</sup> It reports that Mr. Salanic Chiguil is executed on March 6, 1984.<sup>90</sup>

**February 1984 – 1999:** Mr. Salanic Chiguil's family files several applications for a writ of habeas corpus, which are all unsuccessful.<sup>91</sup> Additionally, the Ombudsman's Office conducts a series of investigations, which determine only that Mr. Salanic Chiguil was abducted by the authorities.<sup>92</sup>

### 10. Events pertaining to Mr. Carlos Guillermo Ramírez Gálvez

**February 14, 1984:** Mr. Ramírez Gálvez is a nineteen-year-old medical

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available at [http://www.nytimes.com/2011/11/23/world/americas/guatemala-bodies-of-civil-war-victims-found.html?module=Search&mabReward=relbias%3As%2C%7B%22%22%3A%22RI%3A13%22%7D&\\_r=0](http://www.nytimes.com/2011/11/23/world/americas/guatemala-bodies-of-civil-war-victims-found.html?module=Search&mabReward=relbias%3As%2C%7B%22%22%3A%22RI%3A13%22%7D&_r=0).

84. Gudiel Álvarez et al. (“*Diario Militar*”) v. Guatemala, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 253, ¶ 94 (Nov. 20, 2012).

85. *Id.* ¶ 95.

86. *Id.*

87. *Id.*

88. *Id.*

89. *Id.*

90. *Id.*

91. *Id.* ¶¶ 96–98.

92. *Id.* ¶ 100.

student.<sup>93</sup> Armed men go to Mr. Ramírez Gálvez’s house under the belief that Mr. Ramírez Gálvez possesses weapons such as rifles and grenades.<sup>94</sup> Mr. Ramírez Gálvez is not at home, so the armed men abduct his father instead, forcing him to take them to his son.<sup>95</sup> When they locate Mr. Ramírez Gálvez, the armed men interrogate him using electric shocks.<sup>96</sup> When he hears of the incident, Mr. Ramírez Gálvez’s brother, Mr. Jorge Alberto Ramírez Gálvez, searches for his brother, and when he arrives at the house, is held at gunpoint, is questioned, and watches the armed men break a bottle over Mr. Ramírez Gálvez’s head.<sup>97</sup>

The *Diario Militar* states that Mr. Ramírez Gálvez is captured delivering grenades and detonators to a farmer on February 14, 1984, and is executed on March 6, 1984.<sup>98</sup>

The family reports Mr. Ramírez Gálvez’s disappearance in a complaint filed with the National Police.<sup>99</sup> Mr. Ramírez Gálvez’s father then asks for the Head of State’s assistance, which in turn asks the Ministry of the Interior to intervene.<sup>100</sup> The family also files a habeas corpus application, which reveals that the investigatory committee of the National Police is not detaining Mr. Ramírez Gálvez.<sup>101</sup>

**April 1984 – December 1985:** The family files a total of six applications for habeas corpus, which are all unsuccessful.<sup>102</sup>

#### 11. Events pertaining to Mr. Sergio Saúl Linares Morales

**February 23, 1984:** Mr. Linares Morales is thirty years old, married, and has one daughter and one child on the way.<sup>103</sup> He is an engineering student at the University of San Carlos of Guatemala, is a member of the University Students’ Association, and works at the Municipal Development Institute.<sup>104</sup>

The *Diario Militar* asserts that Mr. Linares Morales is a member of the Manuel Andrade Roca Sectional Unit and the Guatemalan Labor

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93. *Id.* ¶ 101.

94. *Id.* ¶ 102.

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.* ¶ 101.

99. *Id.* ¶ 103.

100. *Id.*

101. *Id.*

102. *Id.* ¶¶ 103–04.

103. *Id.* ¶ 105.

104. *Id.*

Party.<sup>105</sup> It indicates that Mr. Linares Morales is captured on February 23, 1984, and executed on March 29, 1984.<sup>106</sup>

Several people go to Mr. Linares Morales's workplace and take him away.<sup>107</sup> More individuals go to his home, search his room, assault his mother, and take some of his personal belongings.<sup>108</sup>

A soldier later tells the family that Mr. Linares Morales is in prison and was tortured, which resulted in him becoming blind and confined to a wheelchair.<sup>109</sup> The family proceeds to search for Mr. Linares Morales in mortuaries and reports his disappearance to the National Police, the Judicial Police, the Head of State, the Ministry of Defense, and the media.<sup>110</sup> Mr. Linares Morales's wife flees to Mexico out of fear.<sup>111</sup> The Historical Clarification Commission alleges that State authorities are responsible for the disappearance.<sup>112</sup>

**February 1984 – 2006:** Mr. Linares Morales's family files numerous applications for habeas corpus, which are all unsuccessful.<sup>113</sup>

**November 22, 2011:** The Guatemalan Forensic Anthropology Foundation identifies remains discovered in 2003 in a grave in Chimaltenango as Mr. Linares Morales.<sup>114</sup>

## 12. Events pertaining to Mrs. Luz Haydée Méndez Calderón

**March 8, 1984:** Mrs. Méndez Calderón is a thirty-four-year-old mother of two and member of the Guatemalan Labor Party.<sup>115</sup>

The *Diario Militar* states that Mrs. Méndez Calderón is the head of international affairs within the Guatemalan Labor Party.<sup>116</sup> It further states that Mrs. Méndez Calderón's husband, Mr. Marco Antonio Santizo Velasquez, is responsible for the Labor Party's office in Zone 10 of Guatemala City.<sup>117</sup> The *Diario Militar* records that Mrs. Méndez Calde-

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105. *Id.*

106. *Id.*

107. *Id.* ¶ 106.

108. *Id.*

109. *Id.*

110. *Id.* ¶ 107.

111. *Id.*

112. *Id.* ¶ 106.

113. *Id.* ¶¶ 108–110.

114. Cave, *supra* note 83.

115. Gudiel Álvarez et al. (“*Diario Militar*”) v. Guatemala, Merits, Reparations and Costs, ¶ 111.

116. *Id.*

117. *Id.*

rón is captured on March 8, 1984.<sup>118</sup>

Ten individuals wearing military uniforms go to Mrs. Méndez Calderón’s house and question her two children, Wendy Santizo Méndez and Igor Santizo Méndez, ages nine and eleven, respectively, about Mrs. Méndez Calderón’s activities in the Labor Party.<sup>119</sup> The individuals beat Mrs. Méndez Calderón to the point of being unrecognizable, pull out her fingernails with pliers, and shoot her in the stomach.<sup>120</sup>

The men take Mrs. Méndez Calderón and her children to a National Police station and subject Mrs. Méndez Calderón to electric shocks.<sup>121</sup> While the children are returned home several days later, Mrs. Méndez Calderón does not go with them.<sup>122</sup>

A neighbor calls the police to inquire after Mrs. Méndez Calderón and her children, and she is told that the events were a “police operation.”<sup>123</sup> Around the same time, Mrs. Méndez Calderón’s sister receives threats.<sup>124</sup> The Historical Clarification Commission reports that a witness was detained by the National Police and saw “Luz Haydée Méndez de Santizo” written on the wall of the detention center.<sup>125</sup>

Mrs. Méndez Calderón’s family proceeds to search for her in hospitals, prisons, and police stations.<sup>126</sup> They file habeas corpus applications and report the disappearance to the Ministry of the Interior and the National Police.<sup>127</sup>

**July 1984 – February 2006:** Mrs. Méndez Calderón’s family files numerous applications for habeas corpus, which are all unsuccessful.<sup>128</sup>

**2008:** The Supreme Court receives a request to initiate a special investigation into Mrs. Méndez Calderón’s disappearance and asks the Public Prosecution Service to conduct the investigation.<sup>129</sup>

**April 2008:** The Supreme Court’s criminal division plans a hearing for July 8, 2008, but this hearing is suspended because the special investi-

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118. *Id.*

119. *Id.* ¶ 113.

120. *Id.* ¶ 114.

121. *Id.*

122. *Id.*

123. *Id.* ¶ 115.

124. *Id.* ¶ 114.

125. *Id.* ¶ 115.

126. *Id.* ¶ 116.

127. *Id.*

128. *Id.* ¶¶ 116–118.

129. *Id.* ¶ 118.

gation is cancelled.<sup>130</sup>

### 13. Events pertaining to Wendy Santizo Méndez

**March 8, 1984:** Wendy is the daughter of Mrs. Méndez Calderón.<sup>131</sup> She is nine years old.<sup>132</sup>

Wendy arrives home with her brother and finds multiple individuals wearing military uniforms.<sup>133</sup> The strangers question Wendy and her brother about their parents' affiliations and then separate them.<sup>134</sup> While separated, one of the men rapes Wendy.<sup>135</sup>

The individuals escort the children into the backyard, subject them to simulated executions, and force them to watch the torture of their mother.<sup>136</sup> Wendy testifies that her mother is almost unrecognizable from receiving a beating and is shot in the stomach.<sup>137</sup> She also watches as the individuals pull out her mother's nails.<sup>138</sup>

At some point later, the individuals take Wendy, her brother, and mother to a National Police station, where Wendy is subjected to electric shocks to her body.<sup>139</sup> She is also forced to watch the electric shock torture performed on her mother.<sup>140</sup> Several days later, Wendy and her brother are returned home.<sup>141</sup> The children move in with their grandmother in Jutiapa before moving to Canada two years later to live with their father.<sup>142</sup>

### 14. Events pertaining to Juan Pablo Armira López

**March 10, 1984:** Juan is thirteen years old.<sup>143</sup> Prior the events, Juan's family was harassed by the State Army and moved to Guatemala City, where the family changed its last name.<sup>144</sup>

Juan is taking money to pay for maintenance of a house to a mem-

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130. *Id.*

131. *Id.* ¶ 113.

132. *Id.* ¶¶ 111, 113.

133. *Id.* ¶ 113.

134. *Id.*

135. *Id.*

136. *Id.* ¶ 114.

137. *Id.*

138. *Id.*

139. *Id.*

140. *Id.*

141. *Id.*

142. *Id.*

143. *Id.* ¶ 119.

144. *Id.*

ber of the Revolutionary Armed Forces when several men intercept him and take him away.<sup>145</sup> A witness states that he saw Juan in a detention center.<sup>146</sup>

The *Diario Militar* states that Juan is a member of Revolutionary Armed Forces and is responsible for organizing and paying for the organization’s houses.<sup>147</sup> The *Diario Militar* indicates that Juan is captured on March 10, 1984, and sent to the military zone of Chimaltenango.<sup>148</sup> It reports that on March 14, 1984, Juan gives up the location of a Revolutionary Armed Forces house in Mixco, where a kidnapped person is held.<sup>149</sup> The *Diario Militar* recounts a reconnaissance mission carried out at the house, during which three men, two women, and two children are captured, and the kidnapped Mr. José Clemente Barahona Barrios is recovered alive.<sup>150</sup>

#### 15. Events pertaining to María Quirina Armira López

**March 14, 1984:** María is the sixteen-year-old sister of Juan.<sup>151</sup> Armed men come to her family’s house in Colonia Atlántica, where they ask her if her name is “Veronica.”<sup>152</sup> When she informs them that she is not Veronica, the men ask her to go with them and tell her family she will be returned later.<sup>153</sup> However, María is not returned, and her family does not see her again.<sup>154</sup> Out of fear, the family does not file a complaint.<sup>155</sup>

The *Diario Militar* states that María is the mistress of a Lieutenant Joel.<sup>156</sup> It recounts the events of March 14, 1984, beginning at noon, when it alleges she is taken to her already-captured brother, who immediately breaks down and relinquishes the location of a Revolutionary Armed Forces safe house.<sup>157</sup> The *Diario Militar* indicates that María is then taken to Chimaltenango with her brother.<sup>158</sup>

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145. *Id.* ¶ 120.

146. *Id.*

147. *Id.* ¶ 119.

148. *Id.*

149. *Id.*

150. *Id.*

151. *Id.* ¶ 120.

152. *Id.*

153. *Id.*

154. *Id.*

155. *Id.*

156. *Id.* ¶ 119.

157. *Id.*

158. *Id.*

## 16. Events pertaining to Ms. Lesbia Lucrecia García Escobar

**April 17, 1984:** Ms. García Escobar is twenty-five years old and works in both a hospital and a restaurant.<sup>159</sup> She is a union leader within the restaurant.<sup>160</sup> Outside of work, Ms. García Escobar is a member of the Guatemalan Labor Party.<sup>161</sup>

When Ms. García Escobar disappears, she and a co-worker are forced into a white van outside of work.<sup>162</sup>

The *Diario Militar* states that Ms. García Escobar is captured on April 29, 1984, while carrying weapons including a pistol, grenades, and two cyanide capsules.<sup>163</sup> It also reports that Ms. García Escobar participated in a protest against the President's Public Relations Office.<sup>164</sup> The *Diario Militar* indicates that she is executed on May 6, 1984.<sup>165</sup>

**April 1984 – August 1985:** Ms. García Escobar's family reports her disappearance to the National Police, which rejects the complaint.<sup>166</sup> The family searches for Ms. García Escobar in hospitals and prisons throughout Antigua and Guatemala City.<sup>167</sup> The family also files for a writ of habeas corpus, which is unsuccessful.<sup>168</sup>

Ms. García Escobar's father states that he received information from an informant pertaining to his daughter's disappearance, but the informant was murdered.<sup>169</sup> Additionally, her father states that he felt threatened because he is a member of the Mutual Support Group (*Grupo de Apoyo Mutuo*).<sup>170</sup>

## 17. Events pertaining to Mr. Otto René Estrada Illescas

**May 15, 1984:** Thirty-one-year-old Mr. Estrada Illescas is an economics student at the University of San Carlos working in the publishing department.<sup>171</sup> He is married with one son and is a member of the labor union, the University Students' Association, and the Guatemalan Labor

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159. *Id.* ¶ 121.

160. *Id.*

161. *Id.*

162. *Id.* ¶ 122.

163. *Id.* ¶ 121.

164. *Id.*

165. *Id.*

166. *Id.* ¶ 123.

167. *Id.*

168. *Id.*

169. *Id.*

170. *Id.*

171. *Id.* ¶ 124.

Party.<sup>172</sup> Some of his colleagues in the University Students’ Association are kidnapped, so Mr. Estrada Illescas and his wife move to another house.<sup>173</sup>

Around 11:00 a.m. in Guatemala City, Mr. Estrada Illescas is leaving the barber.<sup>174</sup> Several armed men abduct him, and when Mr. Estrada Illescas resists, they shoot him.<sup>175</sup> His wife, Mrs. Beatriz María Velásquez Díaz, files a habeas corpus application, but the Criminal Investigations Department informs the judge that Mr. Estrada Illescas is not presently detained there.<sup>176</sup> Mr. Estrada Illescas’s family reports the disappearance to the media and searches the mortuaries and other places where Mr. Estrada Illescas might have been.<sup>177</sup> During this search, the family finds his car and a witness relates the incident.<sup>178</sup> Mrs. Velásquez Díaz moves to her parents’ house but the National Police still threatens her to keep silent.<sup>179</sup>

The *Diario Militar* alleges that Mr. Estrada Illescas is a member of military intelligence working for the Labor Party.<sup>180</sup> It states that authorities capture him on May 15, 1984, and he is shot in the buttocks.<sup>181</sup> On August 1, 1984, Mr. Estrada Illescas is executed.<sup>182</sup>

**May 1984 – August 1985:** Mr. Estrada Illescas’s family files numerous applications for habeas corpus, which are unsuccessful and reveal no new information as to Mr. Estrada Illescas’s whereabouts.<sup>183</sup>

#### 18. Events pertaining to Mr. Julio Alberto Estrada Illescas

**June 14, 1984:** Mr. Estrada Illescas is the thirty-three-year-old older brother of Mr. Otto René Estrada Illescas.<sup>184</sup> He was previously a political science student at the University of San Carlos, where he was a member of both a student group called “*Frente*” and the Guatemalan Labor Party.<sup>185</sup> When his brother disappears, he aids Mrs. Velásquez Dí-

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172. *Id.*

173. *Id.*

174. *Id.* ¶ 125.

175. *Id.*

176. *Id.*

177. *Id.*

178. *Id.*

179. *Id.* ¶ 129.

180. *Id.* ¶ 124.

181. *Id.*

182. *Id.*

183. *Id.* ¶¶ 126–127.

184. *Id.* ¶ 130.

185. *Id.*

az in the search.<sup>186</sup> However, on the day in question, Mr. Estrada Illescas does not show up to meet Mrs. Velásquez Díaz, with whom Mr. Estrada Illescas planned to continue the search that day.<sup>187</sup> His family learns later that Mr. Estrada Illescas may have been murdered while trying to cross the border into Mexico.<sup>188</sup> Mr. Estrada Illescas's mother believes he may have gone to Canada.<sup>189</sup>

The *Diario Militar* states that Mr. Estrada Illescas is a leader of the Guatemalan Labor Party and was captured on June 14, 1984, in front of the Hermano Pedro Hospital.<sup>190</sup>

#### 19. Events pertaining to Mr. Rubén Amílcar Farfán

**May 15, 1984:** Mr. Amílcar Farfán is a forty-year-old elementary school teacher, literature student at the University of San Carlos, member of the university labor union, and employee of the university newspaper.<sup>191</sup>

Mr. Amílcar Farfán leaves the publishing office on May 15, but is not seen again.<sup>192</sup> The following day, several armed individuals inform his family that he has been captured.<sup>193</sup> An informant testifies that he saw Mr. Amílcar Farfán taken to the National Police investigations department, and the head of the University of San Carlos affirms this.<sup>194</sup> As a result, Mr. Amílcar Farfán's family reports the disappearance to the police.<sup>195</sup>

The *Diario Militar* reports that Mr. Amílcar Farfán is captured on May 15, 1984, and when he resists, he is executed.<sup>196</sup>

**May 1984 – May 1986:** The family files numerous applications for habeas corpus, which are all unsuccessful.<sup>197</sup>

#### 20. Events pertaining to Mr. Sergio Leonel Alvarado Arévalo

**May 19, 1984:** Mr. Alvarado Arévalo is a twenty-year-old economics

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186. *Id.*

187. *Id.* ¶ 131.

188. *Id.*

189. *Id.*

190. *Id.* ¶ 130.

191. *Id.* ¶ 132.

192. *Id.* ¶ 133.

193. *Id.*

194. *Id.*

195. *Id.* ¶ 134.

196. *Id.* ¶ 132.

197. *Id.* ¶¶ 134–136.

student at the University of San Carlos and a member of the University Students’ Association and the Guatemalan Labor Party.<sup>198</sup>

Mr. Alvarado Arévalo leaves to go to school on May 19, but is never seen again.<sup>199</sup> His family searches for him in hospitals, mortuaries, prisons, police stations, and immigration offices to no avail.<sup>200</sup>

The *Diario Militar* reports that Mr. Alvarado Arévalo is a member of the Labor Party and responsible for compiling a report on the organization.<sup>201</sup> It states that he is captured on May 20, 1984, in front of a hospital, and is executed on June 5, 1984.<sup>202</sup>

**June 1984 – April 1985:** Mr. Alvarado Arévalo’s family files a number of applications for habeas corpus, which are all unsuccessful in revealing Mr. Alvarado Arévalo’s whereabouts.<sup>203</sup>

## 21. Events pertaining to Mr. Joaquín Rodas Andrade

**March 2, 1985:** Mr. Rodas Andrade is a twenty-three-year-old agronomy student at the University Center of the West (*Centro Universitario de Occidente*).<sup>204</sup> He is a member of the Revolutionary Organization of the People in Arms, in the Patriotic Youth for Labor division, and a leader of the University Students’ Association.<sup>205</sup>

Right before Mr. Rodas Andrade’s disappearance, his family receives a phone call from an anonymous individual asking whether Mr. Rodas Andrade is still at home.<sup>206</sup> As he is on his way to do some schoolwork, men in a pickup truck abduct Mr. Rodas Andrade and shoot him in the leg.<sup>207</sup> The following day, the media confirms that a bullet struck a wall near where Mr. Rodas Andrade was abducted.<sup>208</sup> In the days that follow, Mr. Rodas Andrade’s family members receive threatening phone calls and are watched in their home.<sup>209</sup>

The *Diario Militar* reports that Mr. Rodas Andrade is in charge of guerrilla propaganda and is a Labor Party dissident.<sup>210</sup> It states that he is

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198. *Id.* ¶ 137.

199. *Id.* ¶ 138.

200. *Id.*

201. *Id.* ¶ 137.

202. *Id.*

203. *Id.* ¶¶ 139–140.

204. *Id.* ¶ 142.

205. *Id.*

206. *Id.* ¶ 143.

207. *Id.*

208. *Id.*

209. *Id.* ¶ 144.

210. *Id.* ¶ 142.

captured on March 2, 1985, and is delivered to a military detention center in San Lucas.<sup>211</sup>

**March 1985 – August 1985:** Mr. Rodas Andrade's friends and family search for him in the military zone of Quetzaltenango and in hospitals, prisons, and police stations with no success.<sup>212</sup> Mr. Rodas Andrade's father also files an application for habeas corpus, which is unsuccessful.<sup>213</sup> The Head of State initiates an investigation, which reveals only that Mr. Rodas Andrade was the victim of a forced disappearance by the National Police.<sup>214</sup>

## 22. Events pertaining to Mr. Alfonso Alvarado Palencia

**January 31, 1984:** Mr. Alvarado Palencia is a thirty-five-year-old government worker and a trade unionist, and is married with three children.<sup>215</sup> Documents from the Historical Archive of the National Police suggest that Mr. Alvarado Palencia is also a member of the National Workers Confederation and has been arrested for possession of propaganda.<sup>216</sup>

Mr. Alvarado Palencia is abducted outside of the Institute of Nutrition of Central America and Panama (*Instituto de Nutrición de Centro América y Panamá*).<sup>217</sup> His family is told that he is detained in a school.<sup>218</sup> An investigation department report dated December 1985 from the National Police states that Mr. Alvarado Palencia is murdered four days after his capture.<sup>219</sup> Mr. Alvarado Palencia's family proceeds to search for him in mortuaries and gravesites and files a report with the police and the media.<sup>220</sup> In the time that follows the disappearance, Mr. Alvarado Palencia's family receives threats and is harassed.<sup>221</sup> Mr. Alvarado Palencia's pregnant wife is so distraught from the disappearance and subsequent harassment that she suffers a miscarriage.<sup>222</sup>

The *Diario Militar* states that Mr. Alvarado Palencia is a member of both the National Workers Confederation and the Rebel Armed For-

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211. *Id.*

212. *Id.* ¶ 145.

213. *Id.* ¶ 146.

214. *Id.*

215. *Id.* ¶ 147.

216. *Id.*

217. *Id.* ¶ 148.

218. *Id.*

219. *Id.*

220. *Id.* ¶ 149.

221. *Id.* ¶ 152.

222. *Id.*

es.<sup>223</sup> It reports that he is captured on January 31, 1984 in front of the Institute of Nutrition, but reports to the contrary of the National Police investigation indicate that he is executed on March 6, 1984.<sup>224</sup>

**February 1984 – 1988:** The family files several applications for habeas corpus, which are all unsuccessful.<sup>225</sup> Additionally, State departments conduct investigations into the disappearance, which are also unsuccessful.<sup>226</sup>

### 23. Events pertaining to Mr. Zoilo Canales Salazar

**March 1984:** Mr. Canales Salazar is fifty-two years old and works for the Guatemalan Labor Party.<sup>227</sup> He is married and has two sons.<sup>228</sup> Due to the nature of his job, the family moves around and uses aliases out of fear of the State.<sup>229</sup>

Mr. Canales Salazar goes to a house in which he and his family previously lived, but does not return.<sup>230</sup> This is the last his family sees of him.<sup>231</sup> Several days later, armed individuals use Mr. Canales Salazar’s keys to enter his current home, where they arrest and blindfold Mr. Canales Salazar’s wife and youngest son.<sup>232</sup> They are taken to a room containing only a bloody mattress, where they are interrogated and left for four days.<sup>233</sup> Upon release, Mr. Canales Salazar’s family does not report the incident or search for his whereabouts out of fear of retribution.<sup>234</sup>

The *Diario Militar* reports that Mr. Canales Salazar, as a member of the Labor Party, is responsible for the military branch of the organization.<sup>235</sup> It states that he is executed on March 29, 1984.<sup>236</sup>

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223. *Id.* ¶ 147.

224. *Id.*

225. *Id.* ¶¶ 149–150.

226. *Id.* ¶ 151.

227. *Id.* ¶ 153.

228. *Id.*

229. *Id.*

230. *Id.* ¶ 156.

231. *Id.*

232. *Id.*

233. *Id.*

234. *Id.*

235. *Id.* ¶ 154.

236. *Id.*

## 24. Events pertaining to Mr. Moisés Canales Godoy

**February 1984:** Mr. Canales Godoy is the twenty-three-year-old son of Mr. Canales Salazar.<sup>237</sup> Like his father, Mr. Canales Godoy is a member of the Labor Party, who lives with his girlfriend and keeps in contact with his family every day.<sup>238</sup>

**March 1, 1984:** Mr. Canales Godoy's family loses contact with him.<sup>239</sup>

The *Diario Militar* reports that Mr. Canales Godoy is a member of the Labor Party who is responsible for communicating with the western regional office in Jutiapa.<sup>240</sup> The entry states that Mr. Canales Godoy is captured at a vegetable stand in Calzada San Juan and that he is working in Jutiapa in the military zone.<sup>241</sup>

## 25. Events pertaining to Mr. Félix Estrada Mejía

**May 15, 1984:** Mr. Estrada Mejía is a twenty-five-year-old member of the Patriotic Youth for Labor division of the Labor Party and is a teaching student.<sup>242</sup> He disappears on May 15, 1984, but the family waits two weeks to start searching for him in case the State retaliates.<sup>243</sup> Mr. Estrada Mejía's family is unsuccessful at finding him in hospitals and mortuaries.<sup>244</sup>

The *Diario Militar* reports that Mr. Estrada Mejía works as the liaison between the Labor Party leaders and the universities.<sup>245</sup> It states that he is captured on May 15, 1984 and executed on June 5, 1984.<sup>246</sup>

## 26. Events pertaining to Mr. Crescencio Gómez López

**June 23, 1984:** Mr. Gómez López is forty-one years old and married with five children.<sup>247</sup> He works in construction and supports the Coca-Cola labor union, although he is not a member.<sup>248</sup> Mr. Gómez López

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237. *Id.* ¶ 153.

238. *Id.*

239. *Id.* ¶ 156.

240. *Id.* ¶ 155.

241. *Id.*

242. *Id.* ¶ 157.

243. *Id.* ¶ 158.

244. *Id.*

245. *Id.* ¶ 157.

246. *Id.*

247. *Id.* ¶ 159.

248. *Id.*

disappears while on his way to the hospital to see his son.<sup>249</sup> Although his family searches for him in police stations, hospitals, and mortuaries, they are unable to find him.<sup>250</sup> In fear, the family does not immediately file a complaint, but in 1999, Mr. Gómez López's brother files a report with the Public Prosecution Service.<sup>251</sup>

The *Diario Militar* states that Mr. Gómez López is a Labor Party member who is captured near the Roosevelt Hospital on June 23, 1984.<sup>252</sup> It confirms that he is executed on August 1, 1984.<sup>253</sup>

#### 27. Events pertaining to Mr. Luis Rolando Peñate Lima

**October 11, 1984:** Mr. Peñate Lima is a twenty-four-year-old elementary school teacher, who is married and expecting a child with his wife.<sup>254</sup> On the day of his disappearance, his car has four flat tires.<sup>255</sup> Mr. Peñate Lima's wife finds armed men inside their home who are searching and taking their possessions.<sup>256</sup> Mr. Peñate Lima's wife searches for her husband, but does not file a formal report.<sup>257</sup>

The *Diario Militar* later reports that Mr. Peñate Lima is a lawyer in a leadership position of the Labor Party.<sup>258</sup> It states that he is captured on October 11, 1984, and when he is, he turns over certain weapons.<sup>259</sup>

#### 28. Events pertaining to Mr. Rudy Gustavo Figueroa Muñoz

**October 12, 1984:** Mr. Figueroa Muñoz is thirty-two years old and is married with two children and one on the way.<sup>260</sup> He is a university professor, works at the Guatemala Social Security Institute, and is a member of a labor union.<sup>261</sup> After Mr. Figueroa Muñoz's disappearance, his family searches for him and files an application for habeas corpus.<sup>262</sup> Approximately two months after he goes missing, Mr. Figueroa Muñoz's body is discovered near his parents' house with stab wounds to

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249. *Id.* ¶ 160.

250. *Id.*

251. *Id.*

252. *Id.* ¶ 159.

253. *Id.*

254. *Id.* ¶ 161.

255. *Id.*

256. *Id.* ¶ 162.

257. *Id.*

258. *Id.* ¶ 161.

259. *Id.*

260. *Id.* ¶ 163.

261. *Id.*

262. *Id.* ¶ 164.

his neck, chest, and abdomen.<sup>263</sup>

The *Diario Militar* reports that Mr. Figueroa Muñoz is a leader of the Labor Party who is captured on October 12, 1984, at his office.<sup>264</sup> The report confirms that Mr. Figueroa Muñoz is executed on December 3, 1984.<sup>265</sup>

### B. Other Relevant Facts

**May 1999:** The National Security Archive, an American non-governmental organization, releases the *Diario Militar*, obtained from a State army employee who took the documents from the military archives.<sup>266</sup> It is published in Harpers Magazine.<sup>267</sup> The *Diario Militar*, prepared by the State military, is a collection of pictures and identifying information of 183 people who went missing between 1983 and 1985.<sup>268</sup> Most of the individuals have photographs, and each entry contains a description of the fate of that person, such as whether he or she was kidnapped, imprisoned, or executed.<sup>269</sup> Most entries suggest that individuals were executed, although a few indicate that the person was freed, most likely to spy on insurgency groups.<sup>270</sup> None of the entries relate to the victims' final whereabouts.<sup>271</sup> The State does not deny either the *Diario Militar* or the information contained within it.<sup>272</sup>

The Public Prosecution Service launches an investigation into the veracity of the *Diario Militar*, as well as to discover the identities of the perpetrators.<sup>273</sup>

**July 2005:** The State Ombudsman's Office discovers documents, photographs, videos, and other documents, which record all State National Police activity from 1882 to 1997.<sup>274</sup> This collection of evidence is called the Historical Archive of the National Police, and it corroborates

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263. *Id.*

264. *Id.* ¶ 163.

265. *Id.*

266. *Id.* ¶ 59.

267. Kate Doyle, *Death Squad Diary: Looking into the Secret Archives of Guatemala's Bureaucracy of Murder*, HARPER'S MAGAZINE (June 1999), available at [http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB15/death\\_squad\\_harpers.pdf](http://www2.gwu.edu/~nsarchiv/NSAEBB/NSAEBB15/death_squad_harpers.pdf).

268. Gudiel Álvarez, et al. ("Diario Militar") v. Guatemala, Merits, Reparations, and Costs, ¶ 59.

269. *Id.* ¶¶ 59–60.

270. *Id.*

271. *Id.* ¶ 61.

272. *Id.*

273. *Id.* ¶¶ 165–69.

274. *Id.* ¶ 63.

the entries in the *Diario Militar*.<sup>275</sup>

**May 10, 2013:** A State court finds General Efraín Ríos Montt, the president of the State from 1982 to 1983, guilty of crimes against humanity against villagers, who were subjected to the State’s counter-insurgency scorched earth policies during the former president’s administration.<sup>276</sup>

**May 20, 2013:** The State Constitutional Court annuls General Ríos Montt’s conviction, citing a flaw in the trial process.<sup>277</sup> A new trial is scheduled for January 2015.<sup>278</sup>

## II. PROCEDURAL HISTORY

### A. Before the Commission

**December 9, 2005:** On behalf of twenty-one individuals, the victims’ next of kin, the Myrna Mack Foundation submits a petition against the State to the Inter-American Commission on Human Rights.<sup>279</sup> The State does not dispute the facts alleged by the victims’ representatives.<sup>280</sup>

**October 22, 2010:** The Commission produces a report on the admissibility and the merits of the case, Report No. 116/10.<sup>281</sup> In light of the

275. *Id.* ¶¶ 63, 65.

276. Elizabeth Malkin, “Former Leader of Guatemala Is Guilty of Genocide Against Mayan Group,” *NYTIMES.COM* (May 10, 2013), available at <http://www.nytimes.com/2013/05/11/world/americas/gen-efrain-rios-montt-of-guatemala-guilty-of-genocide.html?pagewanted=all&module=Search&mabReward=relbias%3As%2C%7B%22%22%3A%22RI%3A15%22%7D&r=0>.

277. “Guatemala annuls Rios Montt’s genocide conviction,” *BBC NEWS* (May 21, 2013), available at <http://www.bbc.com/news/world-latin-america-22605022>.

278. “Guatemala Rios Montt genocide trial to resume in 2015,” *BBC NEWS* (Nov. 6, 2013), available at <http://www.bbc.com/news/world-latin-america-24833642>.

279. *Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala, Merits, Reparations and Costs*, ¶ 1. The twenty-one individuals include Ms. Makrina Gudiel Álvarez, Ms. Laurenta Marina Sosa Calderón, Mr. Juan Francisco Barillas Barrientos, Ms. Reyna de Jesús Escobar Rodríguez, Mr. Renato Guzmán Castañeda, Ms. Ana Dolores Monroy Peralta, Ms. Sonia Guisela Calderón Revolorio, Ms. María del Rosario Bran, Mr. Manuel Ismael Salanic Tuc, Ms. Natalia Gálvez Soberanis, Ms. Mirtala Elizabeth Linares Morales, Wendy Santizo Méndez, María Froilana Armira López, Mr. Efraín García, Mr. Paulo René Estrada Velásquez, Ms. Aura Elena Farfán, Mr. Miguel Ángel Alvarado Arévalo, Mr. Augusto Jordán Rodas Andrade, Ms. Nadezhda Elvira Vásquez Chuco, Ms. Helen Mack Chang, and Ms. Leslie Karina Figueroa Arbizú.

280. *Gudiel Álvarez, et al. (“Diario Militar”) v. Guatemala, Admissibility and Merits*, Report No. 116/10, Inter-Am. Comm’n H.R., Case No. 12.590, ¶ 47 (Oct. 22, 2010).

281. *Gudiel Álvarez, et al. (“Diario Militar”) v. Guatemala, Merits, Reparations and Costs*, ¶ 1.

facts of the case, which the State does not dispute, the Commission finds that the State is responsible for violating the American Convention on Human Rights, the Inter-American Convention on Forced Disappearance of Persons, the Inter-American Convention to Prevent and Punish Torture, and the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women.<sup>282</sup> The Commission recommends that the State reopen the investigation into the perpetrators of the human rights abuses, locate the victims, compensate the victims, ensure access to information by victims' next of kin and judicial authorities, implement human rights education programs for State authorities, and guarantee non-repetition.<sup>283</sup>

### *B. Before the Court*

**February 18, 2011:** The Commission submits the case to the Court after the State failed to adopt its recommendations.<sup>284</sup>

#### 1. Violations Alleged by Commission<sup>285</sup>

Article 3 (Right to Juridical Personality)<sup>286</sup>

Article 4 (Right to Life)

Article 5 (Right to Humane Treatment)

Article 7 (Right to Personal Liberty)

Article 8 (Right to a Fair Trial)

Article 11 (Right to Privacy)

Article 13 (Freedom of Thought and Expression)

Article 16 (Freedom of Association)

Article 17 (Rights of the Family)

Article 19 (Rights of the Child)

Article 22 (Freedom of Movement and Residence)

Article 23 (Right to Participate in Government)

Article 25 (Right to Judicial Protection)

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282. Gudiel Álvarez, et al. ("Diario Militar") v. Guatemala, Admissibility and Merits, ¶ 67. The Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women is also commonly known as the "Convention of Belém do Pará."

283. *Id.* "Recommendations" ¶¶ 1–6.

284. Gudiel Álvarez, et al. ("Diario Militar") v. Guatemala, Merits, Reparations and Costs, ¶ 1.

285. *Id.* ¶ 4.

286. Of the twenty-eight victims in this case, twenty-six were never found at the time this case was sent to the Inter-American Court of Human Rights. Wendy Santizo Méndez was returned to her family alive, and Mr. Rudy Gustavo Figueroa Muñoz's body was discovered two months after his disappearance.

*all in relation to:*

Article 1(1) (Obligation to Respect Rights)

Article 2 (Obligation to Give Domestic Legal Effect to Rights) of the American Convention.

Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women.

Article 1 (Obligation to Adopt Measures) of the Inter-American Convention on Forced Disappearance of Persons.

Article 1 (Obligation to Prevent and Punish Torture)

Article 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment)

Article 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture.<sup>287</sup>

## 2. Violations Alleged by Representatives of the Victims<sup>288</sup>

Article 2 (Definition of Forced Disappearance)

Article 11 (Right to Officially Recognized Detention Location and to Be Promptly Brought Before Competent Judicial Authority) of the Inter-American Convention on Forced Disappearance of Persons.

**October 18, 2011:** The State partially acknowledges international responsibility for the violations alleged against it.<sup>289</sup> However, it contests several violations that did not repeatedly occur.<sup>290</sup>

The State accepts total international responsibility for the violation of Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 17 (Rights of the Family), 25 (Right to Judicial Protection) as to the twenty-six disappeared victims; Article 19 (Rights of the Child) as to the minors Juan Pablo Armira López and María Quirina Armira López; and Articles 16 (Freedom of Association) and 23 (Right to Participate in Government) as to the twenty-six disappeared victims who could not freely express themselves because of their participation in po-

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287. *Id.*

288. *Id.* ¶ 5. The Myrna Mack Foundation and the International Human Rights Clinic of the University of California, Berkeley, serve as representatives of all the victims in this case. *Id.*

289. *Id.* ¶ 6.

290. *Id.*

litical groups.<sup>291</sup>

The State accepts partial international responsibility for the violation of Articles 3 (Right to Juridical Personality), 4 (Right to Life), 5 (Right to Humane Treatment), and 7 (Right to Personal Liberty) as to Mr. Figueroa Muñoz; Articles 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 11 (Right to Privacy), and 19 (Rights of the Child) as to Wendy Santizo Méndez; Articles 8 (Right to a Fair Trial), 13 (Freedom of Thought and Expression), 16 (Freedom of Association), 23 (Right to Participate in Government), and 25 (Right to Judicial Protection) as to Mr. Figueroa Muñoz and his next of kin; Articles 5 (Right to Humane Treatment) and 17 (Rights of the Family) as to both Mr. Figueroa Muñoz and Wendy Santizo Méndez; and Article 13 (Freedom of Thought and Expression) as to the next of kin of the twenty-six disappeared victims and to Mr. Figueroa Muñoz's next of kin.<sup>292</sup>

The State denies international responsibility for the violation of Article 22 (Freedom of Movement and Residence) as to the next of kin of certain disappeared victims; the right to truth as alleged by the victims; Article 2 (Definition of Forced Disappearance) of the Inter-American Convention on Forced Disappearance; and Article 19 (Rights of the Child) of the American Convention as to next of kin who were children at the time of the disappearances.<sup>293</sup>

The State acknowledges all the victims in this case and accepts all facts underlying the alleged violations.<sup>294</sup> The State also states that it will commit itself to continuing investigations into the disappearances of the victims, but it asks the Court that it be exempt from paying costs and expenses of the case in exchange for an amicable settlement.<sup>295</sup>

**December 2 and 16, 2011:** The representatives notify the Court that the remains of Mr. Linares Morales and Mr. Villatoro have been located.<sup>296</sup>

**April 25, 2012:** The Court holds a public hearing.<sup>297</sup>

**May 9, 2012:** Mr. Pedro E. Díaz Romero, an individual, submits an *amicus curiae* brief to the Court.<sup>298</sup>

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291. *Id.* ¶ 17(b).

292. *Id.* ¶ 17(c).

293. *Id.* ¶ 17(d).

294. *Id.* ¶¶ 17(e)–(f).

295. *Id.* ¶ 17(g).

296. *Id.* ¶ 8.

297. *Id.* ¶¶ 10, 13.

298. *Id.* ¶ 14 n.12.

**May 10, 2012:** The Open Society Justice Initiative submits an *amicus curiae* brief to the Court, coauthored by the *Asociación Pro Derechos Humanos* (“APRODEH”) and the Mexican Association for the Defense and Promotion of Human Rights A.C.<sup>299</sup>

### III. MERITS

#### A. *Composition of the Court*<sup>300</sup>

Diego García-Sayán, President  
Manuel E. Ventura Robles, Vice-President  
Leonardo A. Franco, Judge  
Margarette May Macaulay, Judge  
Rhadys Abreu Blondet, Judge  
Alberto Pérez Pérez, Judge

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

#### B. *Decision on the Merits*

**November 20, 2012:** The Court issues its Judgment on the Merits, Reparations and Costs.<sup>301</sup>

The Court found unanimously that Guatemala had violated:

Article 7 (Right to Personal Liberty), in relation to Article 1(1) of the American Convention, to the detriment of the twenty-six disappeared victims, Mr. Figueroa Muñoz, Wendy Santizo Méndez, and Igor Santizo Méndez,<sup>302</sup> because:

*A person’s right to liberty may only be restricted for the reasons enumerated in the American Convention and any laws resulting from the Convention.*<sup>303</sup> *Any detention, no matter how long, must be recorded.*<sup>304</sup> *This documentation must indicate how long the detention lasted, who*

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299. *Id.* ¶ 14 n.13.

300. For reasons beyond his control, Judge Eduardo Vio Grossi was not present for the deliberation or signature of the merits of this case. *Id.* at n.1.

301. *Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala, Merits, Reparations and Costs.*

302. *Id.* ¶¶ 198, 217, “Declares” ¶¶ 1, 3, 5, 6.

303. *Id.* ¶ 197.

304. *Id.*

ordered the detention, and the reasons behind it.<sup>305</sup> Without this documentation, the detention violates Article 7 (Right to Personal Liberty).<sup>306</sup>

When a person suffers a forced disappearance by means of detention, he or she is deprived of liberty.<sup>307</sup> Here, the State detained the twenty-six victims and Mr. Figueroa Muñoz for periods lasting from five days to 106 days.<sup>308</sup> These detention periods violated the twenty-six victims' right to liberty, especially because many detention centers were clandestine and existed to eliminate any trace of the victims.<sup>309</sup> Furthermore, the State failed to comply with its obligations under Article 7 (Right to Personal Liberty) where it failed to investigate Wendy Santizo Méndez's allegations of rape, detention, and torture, as well as Igor Santizo Méndez's allegations of detention and torture.<sup>310</sup> As a result, the State violated Article 7 (Right to Personal Liberty) to the detriment of the twenty-six disappeared victims, Wendy Santizo Méndez, and Igor Santizo Méndez.<sup>311</sup>

Article 11 (Right to Officially Recognized Detention Location and to Be Promptly Brought Before Competent Judicial Authority) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of the twenty-six disappeared victims,<sup>312</sup> because:

*Article 11 (Right to Officially Recognized Detention Location and to Be Promptly Brought Before Competent Judicial Authority) imposes a duty on the State to safeguard an individual's right to liberty by not creating and maintaining clandestine detention centers.<sup>313</sup> Legally recognized detention centers and thorough records of detainees are examples of fundamental safeguards of liberty.<sup>314</sup> When a State creates and operates clandestine detention centers, it violates the guarantee to personal liberty.<sup>315</sup> By using clandestine detention centers, the State thus violated its obligation to comply with Article 11 (Right to Officially Recognized Detention Location and to Be Promptly Brought Before Competent Judi-*

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305. *Id.*

306. *Id.*

307. *Id.* ¶ 198.

308. *Id.* ¶ 199.

309. *Id.* ¶¶ 199–200.

310. *Id.* ¶¶ 281–282.

311. *Id.* ¶¶ 199, 267, 281, 282.

312. *Id.* ¶¶ 201, 217.

313. *Id.* ¶ 200.

314. *Id.*

315. *Id.* ¶¶ 200–201.

*cial Authority) of the Inter-American Convention on Forced Disappearance of Persons to the detriment of the twenty-six disappeared victims.*<sup>316</sup>

Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) in relation to Article 1(1) of the American Convention, to the detriment of the twenty-six disappeared victims, Mr. Figueroa Muñoz, Wendy Santizo Méndez, Igor Santizo Méndez, and Mr. Alvarado Palencia’s next of kin,<sup>317</sup> because:

*A State violates an individual’s right to personal integrity when it forcibly disappears that individual.*<sup>318</sup> *A forced disappearance subjects an individual to prolonged isolation and coercive solitary confinement, which constitute cruel and inhuman treatment under Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) of the Convention.*<sup>319</sup> *Therefore, every time the State forcibly disappears a person, that victim’s right to personal integrity is violated.*<sup>320</sup> *This is true even when those disappeared victims are turned over to the authorities or other State units or agents, who then commit acts of torture and murder.*<sup>321</sup>

*In addition to violating the rights of the twenty-six disappeared victims, the State also violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) to the detriment of the next of kin because the State’s actions that gave rise to the various human rights violations alleged caused the disappeared victims’ next of kin and Mr. Figueroa Muñoz’s next of kin to suffer and experience sadness, frustration, helplessness, insecurity, and anguish.*<sup>322</sup> *The State further violated this right by concealing from the next of kin information and the whereabouts of their family members.*<sup>323</sup> *Moreover, when the State failed to investigate Wendy Santizo Méndez’s allegations of rape, detention, and torture, as well as Igor Santizo Méndez’s allegations of detention and torture, it again failed to comply with its obligations under Articles 5(1) (Right to*

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316. *Id.* ¶ 201.

317. *Id.* ¶ 217, “Declares” ¶¶ 1, 3, 5, 6, 7, 8.

318. *Id.* ¶ 203.

319. *Id.*

320. *Id.*

321. *Id.* ¶ 204.

322. *Id.* ¶ 291.

323. *Id.* ¶¶ 301–302.

*Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment).*<sup>324</sup>

*Based on the foregoing reasons, the State violated Articles 5(1) (Right to Physical, Mental, and Moral Integrity) and 5(2) (Prohibition of Torture, and Cruel, Inhumane or Degrading Treatment) in relation to Article 1(1) of the Convention to the detriment of the twenty-six disappeared victims, Mr. Figueroa Muñoz, Wendy Santizo Méndez, Igor Santizo Méndez, and Mr. Alvarado Palencia's next of kin.*<sup>325</sup>

Article 4 (Right to Life) in relation to Article 1(1) of the American Convention, to the detriment of the twenty-six disappeared victims and Mr. Figueroa Muñoz,<sup>326</sup> because:

*Forced disappearances always present a risk that a variety of rights will be violated, such as the right to life.*<sup>327</sup> *Seventeen victims who were disappeared were also executed, which was denoted in the Diario Militar with the number "300," which State forces used to symbolize execution.*<sup>328</sup> *By killing those seventeen victims, the State thus necessarily deprived them of their rights to life.*<sup>329</sup> *Although the remaining nine disappeared victims have not yet been found and thus are not considered "executed" until their remains or persons are located and identified, those victims' rights to life are still violated.*<sup>330</sup> *Consequently, the State violated Article 4 (Right to Life) to the detriment of the twenty-six disappeared victims and Mr. Figueroa Muñoz.*<sup>331</sup>

Article 3 (Right to Juridical Personality) in relation to Article 1(1) of the American Convention, to the detriment of the twenty-six disappeared victims and Mr. Figueroa Muñoz,<sup>332</sup> because:

*Article 3 (Right to Juridical Personality) provides that individuals are entitled to legal protection and security.*<sup>333</sup> *When the State claimed ignorance of the true whereabouts of the disappeared victims, it removed*

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324. *Id.* ¶¶ 281–282.

325. *Id.* ¶¶ 267, 302.

326. *Id.* ¶ 217, "Declares" ¶¶ 1, 3.

327. *Id.* ¶ 205.

328. *Id.* ¶¶ 205–206.

329. *Id.* ¶ 206.

330. *See id.* ¶¶ 205, 207.

331. *Id.* ¶¶ 217, 267.

332. *Id.* ¶ 217, "Declares" ¶¶ 1, 3.

333. *Id.* ¶ 208.

*them from the protection of the law and violated their rights to legal security and juridical personality.*<sup>334</sup> *By forcibly disappearing the victims, the State also neglected to recognize that the victims possessed fundamental and civil rights, which the victims could not enjoy once they were disappeared.*<sup>335</sup> *Last, by forcibly disappearing the victims, the State removed the victims from the legal sphere entirely with no access to either society or the State.*<sup>336</sup> *Accordingly, the State violated Article 3 (Right to Juridical Personality) to the detriment of the twenty-six disappeared victims and Mr. Figueroa Muñoz.*<sup>337</sup>

Article 1(a) (Prohibition of Practicing, Tolerating, or Permitting Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of the twenty-six disappeared victims,<sup>338</sup> and Article 1(b) (Duty to Punish Forced Disappearances) of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of the twenty-six disappeared victims, Mr. Figueroa Muñoz, and the victims’ next of kin,<sup>339</sup> because:

*The State has an obligation under Article 1 of the American Convention on Forced Disappearance of Persons not to facilitate, perpetrate, or tolerate forced disappearances.*<sup>340</sup> *By forcibly disappearing the twenty-six victims, the State failed to comply with its obligation under Article 1(a) (Prohibition of Practicing, Tolerating, or Permitting Forced Disappearances).*<sup>341</sup> *By failing to investigate and punish those responsible for the disappearances, the State also violated Article 1(b) (Duty to Punish Forced Disappearances) to the detriment of the twenty-six disappeared victims, Mr. Figueroa Muñoz, and the victims’ next of kin.*<sup>342</sup>

Article 19 (Rights of the Child) in relation to Article 1(1) of the American Convention, to the detriment of Juan Pablo Armira López, María Quirina Armira López, Marlyn Carolina Hernández Escobar, Juan Carlos Hernández Escobar, and José Geovany Hernández Escobar,<sup>343</sup> because:

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334. *Id.*

335. *Id.* ¶ 209.

336. *Id.*

337. *Id.* ¶¶ 217, 267.

338. *Id.* ¶ 217, “Declares” ¶ 1.

339. *Id.* ¶¶ 217, 267, “Declares” ¶¶ 1, 3, 4.

340. *Id.* ¶ 211.

341. *Id.* ¶ 217.

342. *Id.* ¶ 267.

343. *Id.* ¶ 212, 217, “Declares” ¶ 1.

*Article 19 (Rights of the Child) entitles children to special protective measures from the State.*<sup>344</sup> *Juan Pablo Armira López was thirteen years old and María Quirina Armira López was sixteen years old at the time of their respective disappearances.*<sup>345</sup> *The State failed to comply with its obligation to adopt special protective measures for these minors.*<sup>346</sup>

*Article 19 (Rights of the Child) also states that children have a right to live with their families and to be free from interference with that right.*<sup>347</sup> *After Mr. Hernández Bonilla was disappeared, his children, Marlyn Carolina, Juan Carlos, and José Geovany were separated from their mother, Ms. Reyna de Jesús Escobar Rodríguez, for a period of time.*<sup>348</sup> *Ms. Escobar Rodríguez moved to Guatemala City in 1984 to hide for her protection and could not take her children with her at the time.*<sup>349</sup> *Marlyn Carolina joined her mother in 1988 and José Geovany joined them in 1990, but Juan Carlos stayed behind with his grandmother.*<sup>350</sup> *When the children were separated from their mother for protection because of Mr. Hernández Bonilla's abduction, the State violated the children's rights under Article 19 (Rights of the Child).*<sup>351</sup>

Article 16 (Freedom of Association) in relation to Article 1(1) of the American Convention, to the detriment of the twenty-six disappeared victims and certain next of kin,<sup>352</sup> because:

*Individuals living within a State have a right to associate with whomever they please and without interference from the State.*<sup>353</sup> *The freedom of association also protects individuals from attack based on this freedom.*<sup>354</sup> *The disappeared victims all associated with and participated in political, labor, or social groups, and by virtue of this association, the twenty-six victims were forcibly disappeared.*<sup>355</sup> *By virtue of disappearing these victims based on their involvement in the aforementioned groups, the State violated the twenty-six victims' rights to freedom of*

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344. *Id.* ¶ 212.

345. *Id.*

346. *Id.*

347. *Id.* ¶ 312.

348. *Id.*

349. *Id.*

350. *Id.*

351. *Id.*

352. *Id.* "Declares" ¶¶ 2, 11.

353. *Id.* ¶ 219.

354. *Id.*

355. *Id.* ¶¶ 220–221.

association under Article 16.<sup>356</sup>

Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) in relation to Article 1(1) of the American Convention, to the detriment of Mr. Figueroa Muñoz and the disappeared victims’ next of kin,<sup>357</sup> because:

*Article 8 (Right to a Fair Trial) and Article 25 (Right to Judicial Protection) require the State to provide victims of human rights violations with access to a fair trial under due process of law.<sup>358</sup> These rights include the State’s obligation to diligently and timely investigate the allegations and to ensure that all necessary steps will be taken to ensure that those responsible will be punished.<sup>359</sup>*

*Thirteen victims’ next of kin filed formal complaints regarding the disappearance of family members.<sup>360</sup> Fourteen victims’ next of kin filed habeas corpus applications for their family members.<sup>361</sup> Nine victims’ next of kin publicly denounced their family members’ disappearances.<sup>362</sup> Of those that did not file formal complaints or habeas corpus applications, several conducted searches or made informal public complaints.<sup>363</sup> Thus, the State could have been aware of the disappearances of those individuals whose next of kin did not file formal complaints, and it was undoubtedly aware of at least seventeen individuals’ disappearances.<sup>364</sup>*

*Under its obligations under the Convention, the State should have conducted its own official investigation into these disappearances regardless of whether a complaint was filed.<sup>365</sup> Although the State acknowledged the veracity of the *Diario Militar*, it failed to conduct an adequate and reasonably timely investigation in three ways.<sup>366</sup>*

*First, any investigative steps were merely aimed at gleaning information about the victims instead of at identifying and punishing the*

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356. *Id.* ¶ 220.

357. *Id.* “Declares” ¶ 4.

358. *See id.* ¶ 229.

359. *Id.* ¶¶ 229, 230, 237.

360. *Id.* ¶ 238.

361. *Id.*

362. *Id.*

363. *Id.*

364. *Id.* ¶¶ 238–239.

365. *Id.* ¶¶ 239, 241.

366. *Id.* ¶ 260.

perpetrators and identifying the police or military units named in the *Diario Militar*.<sup>367</sup> Second, the State had yet to unify the investigation, which was fragmented and split among various State agencies, after more than thirteen years following the emergence of the *Diario Militar*, which amounted to an unwarranted and unreasonable delay.<sup>368</sup> Third, the State Ministry of Defense obstructed the progress of the investigations.<sup>369</sup> These unreasonable and unwarranted omissions by the State prevented the identification, prosecution, and punishment of the individuals responsible for the disappearances.<sup>370</sup>

Regarding Mr. Figueroa Muñoz, the State is presumed to have been aware of Mr. Figueroa Muñoz's death following the appearance of his dead body in 1984 and thus had an obligation to open an investigation into his death, but failed to do so until 2001.<sup>371</sup>

As a result, the State violated Articles 8 (Right to Fair Trial) and 25 (Right to Judicial Protection) to the detriment of Mr. Figueroa Muñoz and the twenty-six victims' next of kin.<sup>372</sup>

Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) of the Inter-American Convention to Prevent and Punish Torture, to the detriment of the disappeared victims, their next of kin, Mr. Figueroa Muñoz, Igor Santizo Méndez, and Wendy Santizo Méndez,<sup>373</sup> because:

Articles 1 (Obligation to Prevent and Punish Torture), 6 (Obligation to Take Effective Measures and Punish Torture and Cruel, Inhuman, and Degrading Treatment), and 8 (Obligation to Investigate and Prosecute) impose a duty on the State to investigate any acts of torture or other cruel, inhuman, or degrading treatment that occur within its jurisdiction.<sup>374</sup> The State failed to comply with this obligation when it did not diligently or timely investigate the complaints and allegations lodged by the victims' next of kin, Igor Santizo Méndez, and Wendy Santizo Mén-

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367. *Id.* ¶¶ 253, 259–260.

368. *Id.* ¶¶ 253, 260–262.

369. *Id.* ¶ 260.

370. *Id.* ¶¶ 252, 256, 258, 260.

371. *Id.* ¶ 257.

372. *Id.* ¶¶ 252, 267.

373. *Id.* “Declares” ¶¶ 3, 4.

374. *Id.* ¶ 233.

dez.<sup>375</sup> *The State’s investigative steps only obtained information about the victims and not about any of the police or military units identified in the Diario Militar.*<sup>376</sup> *By not diligently or effectively conducting its investigation, the State violated its obligations under the Inter-American Convention to Prevent and Punish Torture.*<sup>377</sup>

Article 11 (Right to Privacy), in relation to Article 1(1) of the American Convention, to the detriment of Wendy Santizo Méndez,<sup>378</sup> because:

*Article 11 (Right to Privacy) also includes the right to protection of privacy, including one’s private life and sexual life.*<sup>379</sup> *Therefore, the State’s failure to investigate Wendy Santizo Méndez’s complaint of rape violated her right to protection of her sexual life in violation of Article 11 (Right to Privacy).*<sup>380</sup>

Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, to the detriment of Wendy Santizo Méndez,<sup>381</sup> because:

*Article 7 of the American Convention on the Prevention, Punishment and Eradication of Violence Against Women requires that a State use due diligence to prevent and punish acts of violence against women.*<sup>382</sup> *On multiple occasions, Wendy Santizo Méndez testified as to the acts of rape and torture committed against her, including precise information about the police station at which she was detained.*<sup>383</sup> *Despite this information, the State neglected to perform any investigations or take special measures, which violated the State’s obligations and Wendy Santizo Méndez’s rights under the American Convention on the Prevention, Punishment and Eradication of Violence Against Women in violation of Article 7 (Duty to Prevent, Punish, and Eradicate Violence Against Women).*<sup>384</sup>

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375. *Id.* ¶¶ 258, 281–282.

376. *Id.* ¶¶ 253, 259–260.

377. *Id.* ¶¶ 258, 266–267.

378. *Id.* “Declares” ¶ 5.

379. *Id.* ¶ 276.

380. *Id.*

381. *Id.* “Declares” ¶ 5.

382. *Id.* ¶ 275.

383. *Id.* ¶¶ 280–281.

384. *Id.* ¶ 281.

Article 22 (Freedom of Movement and Residence) in relation to Article 1(1) of the American Convention, to the detriment of Mr. Gudiel Ramos, Ms. Agripina Álvarez, and their children Makrina, Beatriz, José Francisco, Florentín and Ana Patricia,<sup>385</sup> because:

*Article 22 (Freedom of Movement and Residence) protects the right of a person not to be forcibly displaced by the State and not to be forced to leave the State or territory in which that person lives.<sup>386</sup> A failure to investigate violent acts can also propagate forced displacements.<sup>387</sup> Not only must a State guarantee these rights; a State must also take steps to ensure that displaced individuals have a safe, decent, and voluntary return to their homes or that displaced individuals are able to safely and voluntarily resettle elsewhere in the territory.<sup>388</sup>*

*The State considered Mr. Gudiel Ramos and his family subversive, which forced the family to move around the State and eventually to Mexico.<sup>389</sup> Ms. Makrina Gudiel Álvarez moved to the United States from 1983 to 1987.<sup>390</sup> The family finally returned to the State in 1997 after the State and insurgency groups signed the peace agreements.<sup>391</sup> Certain of Mr. Gudiel Ramos's family members chose not to return to the State at all out of fear that the peace agreement would disintegrate.<sup>392</sup> Because the State did not provide Mr. Gudiel Ramos, Ms. Agrippina Álvarez, and their children with the necessary conditions for a voluntary, dignified, and safe return to Guatemala, the State violated their Article 22 right to freedom of movement and residence.<sup>393</sup>*

Article 17 (Rights of the Family) in relation to Article 1(1) of the American Convention, to the detriment of Ms. Reyna de Jesús Escobar Rodríguez, Marlyn Carolina Hernández Escobar, José Geovany Hernández Escobar, and Juan Carlos Hernández Escobar,<sup>394</sup> because:

*Article 17 (Rights of the Family) states that families have the right to be*

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385. *Id.* "Declares" ¶ 9.

386. *Id.* ¶ 304.

387. *Id.*

388. *Id.* ¶ 305.

389. *Id.* ¶ 308.

390. *Id.*

391. *Id.*

392. *Id.*

393. *Id.*

394. *Id.* "Declares" ¶ 10.

*free from arbitrary and unlawful interferences with the familial unit.*<sup>395</sup> *The State caused the family to be separated after it disappeared Mr. Hernández Bonilla, which caused Ms. Escobar Rodríguez to flee to Guatemala City for protection, leaving her children behind with their grandmother.*<sup>396</sup> *By interfering with the family’s cohesion, the State violated Ms. Escobar Rodríguez’s and her children’s right to family.*<sup>397</sup> *As a result, the State violated Article 17 (Rights of the Family) to the detriment of Ms. Reyna de Jesús Escobar Rodríguez, Marlyn Carolina Hernández Escobar, José Geovany Hernández Escobar, and Juan Carlos Hernández Escobar.*<sup>398</sup>

The Court found that the State did not violate:

Article 2 (Definition of Forced Disappearance) of the Inter-American Convention on Forced Disappearance,<sup>399</sup> because:

*Article 2 (Definition of Forced Disappearance) does not constitute an obligation on the State, but instead defines a “forced disappearance.”*<sup>400</sup> *Accordingly, because it imposes no duty upon the State, the Court could not deem the State to have violated Article 2.*<sup>401</sup>

The Court did not rule on:

Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention as to Wendy Santizo Méndez,<sup>402</sup> because:

*First, the Court found that Wendy Santizo Méndez was over the age of eighteen when she complained about the acts of violence against her and declared that it was inappropriate to analyze the protections the State should have taken because Wendy Santizo Méndez was a child when the acts were committed.*<sup>403</sup> *Second, the Court found it inappropriate to rule on these articles because Wendy Santizo Méndez exercised those rights in bringing the matter to the Court and may still obtain jus-*

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395. *Id.* ¶ 312.

396. *Id.*

397. *Id.*

398. *Id.*

399. *Id.* ¶ 216.

400. *Id.*

401. *See id.*

402. *Id.* ¶ 281.

403. *Id.*

tice.<sup>404</sup>

Articles 13 (Freedom of Thought and Expression) and 23 (Right to Participate in Government) of the American Convention,<sup>405</sup> because:

*With regard to Article 23 (Right to Participate in Government), the Court found that it was unnecessary to conduct an independent analysis because it already found the State violated the victims' next of kin's access to information when it neglected to collaborate on the investigations.<sup>406</sup> Additionally, with regard to Article 13 (Freedom of Thought and Expression), though intrinsically related to the right to freedom of association, the Court found that the representatives did not prove an impairment of the rights necessary to establish an autonomous violation of the right to freedom of expression.<sup>407</sup>*

### C. Dissenting and Concurring Opinions

[None]

## IV. REPARATIONS

The Court ruled unanimously that the State had the following obligations:

### A. Specific Performance (Measures of Satisfaction and Non-Repetition Guarantee)

#### 1. Investigate, Prosecute, and Punish Those Responsible

The Court ordered the State to immediately open and conduct an investigation into the facts of this case, including identifying and punishing those responsible for the human rights violations.<sup>408</sup> The State must undertake and conclude this investigation within a reasonable amount of time.<sup>409</sup>

#### 2. Locate the Victim or Exhume, Identify, and Return the Victim's Re-

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404. *Id.*

405. *Id.* ¶ 269.

406. *Id.*

407. *Id.* ¶ 319.

408. *Id.* ¶ 326–327, “Decides” ¶ 2.

409. *Id.* ¶ 327.

## mains

The Court ordered the State to open and conduct a diligent, systematic, and rigorous search into the location of the remaining twenty-four<sup>410</sup> disappeared victims.<sup>411</sup> The State must conduct this search using adequate and appropriate resources and technology, and, if necessary, the State must seek the cooperation of and help from other states.<sup>412</sup> Upon locating any deceased victims, the State must return the remains to the victims’ families and provide funeral costs at the request of the next of kin.<sup>413</sup>

## 3. Provide Medical Treatment

The State must provide free psychological and psychiatric care to the victims, including providing the victims with free medication and examinations for as long as these services are required.<sup>414</sup> If the State cannot provide these services in public State institutions, it must send the victims to private institutions.<sup>415</sup>

## 4. Publish the Judgment

The State must publish a summary of the Judgment on the Merits, which should include a fact summary, the merits, and a description of the victims and their lives.<sup>416</sup> The State and the representatives must agree on the summary, which must be published in newspapers, on State websites, on television, and on the radio.<sup>417</sup> Additionally, the State must publish the official summary of the Judgment once in the official gazette, the official summary once in a popular, national newspaper, and the Judgment in its entirety on a State website for no less than one year.<sup>418</sup>

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410. The remains of Mr. Amancio Samuel Villatoro and Mr. Sergio Saúl Linares Morales were identified on November 22, 2011. *Id.* ¶ 183.

411. *Id.* ¶ 334, “Decides” ¶ 3.

412. *Id.* ¶ 334.

413. *Id.*

414. *Id.* ¶ 339, “Decides” ¶ 4.

415. *Id.* ¶ 339.

416. *Id.* ¶ 341, “Decides” ¶ 5.

417. *Id.* ¶ 341.

418. *Id.*

### 5. Produce a Documentary About the *Diario Militar*

The State must make a documentary recounting the facts surrounding the *Diario Militar* and its entries and searching for justice for the victims.<sup>419</sup> The representatives must agree to the content of the documentary beforehand, and the State will pay for all the documentary expenses.<sup>420</sup> Once the State has produced the documentary and given the representatives due notice, it will air on a national television channel.<sup>421</sup> The State will give the representatives forty copies to distribute among the victims' families, organizations, and universities.<sup>422</sup>

### 6. Construct a Memorial

The State must construct a memorial park or plaza to honor and remember the victims.<sup>423</sup> The State and representatives should agree on the location of the memorial as well as the design.<sup>424</sup> The State must place a plaque in the memorial that contains the names of the victims in the case and that states that the plaque is in compliance with the Court's Judgment.<sup>425</sup>

### 7. Provide a Report on Compliance

The State must give the Court a report on its compliance with the reparations ordered in the Judgment on the Merits.<sup>426</sup>

#### *B. Compensation*

The Court awarded the following amounts:

#### 1. Pecuniary Damages

The Court awarded \$118,027 to Mr. Gudiel Álvarez; \$284,779 to Mr. Sosa Calderón; \$63,494 to Mr. Barillas Barrientos; \$86,816.00 to Mr. Hernández Bonilla; \$122,582 to Mr. Guzmán Castañeda; \$105,192 to Mr. Calvo Pérez; \$107,307 to Mr. Calderón Díaz; \$23,922 to Mr.

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419. *Id.* ¶ 346, "Decides" ¶ 6.

420. *Id.* ¶ 346.

421. *Id.*

422. *Id.*

423. *Id.* ¶ 349, "Decides" ¶ 7.

424. *Id.* ¶ 349.

425. *Id.* ¶ 349.

426. *Id.* "Decides" ¶ 9.

Villatoro; \$35,367 to Mr. Alvarado Palencia; \$135,990 to Mr. Salanic Chiguil; \$141,604 to Mr. Ramírez Gálvez; \$401,622 to Mr. Linares Morales; \$2,635 to Mr. Canales Salazar; \$57,329 to Mr. Canales Godoy; \$44,859 to Ms. Méndez Calderón; \$99,129 to Juan Pablo Armira López; \$107,685 to María Quirina Armira López; \$129,946 to Ms. García Escobar; \$60,915 to Mr. Estrada Mejía; \$83,211 to Mr. Otto René Estrada Illescas; \$59,643 to Mr. Julio Alberto Estrada Illescas; \$122,395 to Mr. Amílcar Farfán; \$131,926 to Mr. Alvarado Arévalo; \$44,055 to Mr. Gómez López; \$124,316 to Mr. Peñate Lima; and \$146,429 to Mr. Rodas Andrade, all to compensate these victims’ loss of earnings for the income each victim would have likely earned during his or her lifetime.<sup>427</sup> The State must pay each amount to the victims’ next of kin, with 50% of each to be distributed to the children of the victim, 50% to be distributed to spouse or companion of the victim at the time of the disappearance.<sup>428</sup> If the victim did not have children, then that proportional share shall be given to his or her spouse or companion, and vice versa.<sup>429</sup> If the victim had neither children nor a spouse, then the State shall pay the compensation according to State inheritance laws.<sup>430</sup>

The Court also awarded \$10,000 to each of the families of the victims as compensation for any consequential damage associated with the victim’s disappearance.<sup>431</sup> Within six months of the Judgment, the representatives must inform the State which person in each family will receive the payment.<sup>432</sup>

## 2. Non-Pecuniary Damages

The Court awarded \$80,000 to each of the twenty-six disappeared victims, \$40,000 to each of the mothers, fathers, daughters, sons, spouses, and permanent companions of the victims, and \$10,000 to each of the siblings and grandchildren of the victims.<sup>433</sup> For the purpose of compensation, the Court considered Ms. Laurena Marina Sosa Calderón, Mr. Sosa Calderón’s sister, as his mother because she was responsible for his upbringing and care.<sup>434</sup> Additionally, the Court considered Mr. Amílcar Farfán’s nieces and nephews to be his children because they

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427. *Id.* ¶¶ 362, 363, see victim compensation chart.

428. *Id.* ¶¶ 364 (a)–(b).

429. *Id.* ¶¶ 364(c)–(d).

430. *Id.* ¶ 364(e).

431. *Id.* ¶ 367.

432. *Id.*

433. *Id.* ¶ 371.

434. *Id.* ¶ 372.

regarded him as such.<sup>435</sup>

The Court awarded an additional \$20,000 to Wendy Santizo Méndez and Igor Santizo Méndez to compensate for the State's failure to investigate into their allegations of torture and detention.<sup>436</sup>

The Court awarded \$20,000 to Mr. Figueroa Muñoz, as well as \$10,000 each to his wife, his mother, and his two children to compensate for his execution and the State's failure to investigate.<sup>437</sup>

### 3. Costs and Expenses

The Court awarded \$70,000 to the Myrna Mack Chang Foundation for costs and expenses incurred in litigating the case since 2005.<sup>438</sup> The Court also awarded \$10,000 to the International Human Rights Law Clinic of the University of California, Berkeley, School of Law, for costs and expenses incurred in litigating the case since 2007.<sup>439</sup>

### 4. Total Compensation (including Costs and Expenses ordered):

\$5,341,175, plus the non-pecuniary damages awarded to the unnamed and unlisted beneficiaries.

### *C. Deadlines*

The State must pay all compensation damages within two years of the date of the Judgment.<sup>440</sup> If the State is unable to make these payments before the deadline to the beneficiaries because of some delay due to the beneficiary, it must deposit the amount into a bank account, where the beneficiary can access it.<sup>441</sup> If the beneficiary does not claim the amount within ten years, the State may reclaim the amount.<sup>442</sup>

The State must open and conduct the investigation into the victims' disappearances within a reasonable time.<sup>443</sup> The State must also search for the remaining twenty-four disappeared victims as soon as possible.<sup>444</sup>

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435. *Id.*

436. *Id.* ¶ 373.

437. *Id.* ¶ 374.

438. *Id.* ¶ 383.

439. *Id.* ¶¶ 377, 383.

440. *Id.* ¶ 384.

441. *Id.* ¶ 387.

442. *Id.*

443. *Id.* ¶ 327, "Decides" ¶ 2.

444. *Id.* ¶ 334, "Decides" ¶ 3.

The State must immediately provide free psychological and psychiatric services and treatments to those victims who request them.<sup>445</sup> The victims who wish to opt into this program must inform the State within one year of the Judgment.<sup>446</sup>

The State must publish the Judgment on the Merits and the summary of the Judgment in the designated mediums within six months of the date of the Judgment.<sup>447</sup>

The State must produce the documentary within two years of the date of the Judgment.<sup>448</sup> Additionally, the documentary must be shown once on a national television channel at least once before the two years have ended.<sup>449</sup>

The State must erect a memorial park or plaza within two years.<sup>450</sup>

The State must present a report on compliance with the Judgment on the Merits within one year of the date of the Judgment.<sup>451</sup>

## V. INTERPRETATION AND REVISION OF JUDGMENT

**March 20, 2013:** The representatives filed a request for interpretation of the Judgment.<sup>452</sup> The representatives sought clarification as to the payment and distribution methods regarding the compensatory damages and the non-pecuniary damages.<sup>453</sup> Additionally, the representatives sought clarification as to the date by which the State must pay the damages.<sup>454</sup>

### A. *Composition of the Court*<sup>455</sup>

Diego García-Sayán, President  
Leonardo A. Franco, Judge  
Margarette May Macaulay, Judge

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445. *Id.* “Decides” ¶ 4.

446. *Id.* ¶ 339.

447. *Id.* “Decides” ¶ 5.

448. *Id.* ¶ 346, “Decides” ¶ 6.

449. *Id.* ¶ 346.

450. *Id.* ¶ 349.

451. *Id.* “Decides” ¶ 9.

452. *Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala*, Interpretation of the Judgment on Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 262, ¶¶ 3, 16 (Aug. 19, 2013).

453. *Id.* ¶ 18.

454. *Id.*

455. For reasons beyond his control, Judge Manuel E. Ventura Robles was not present for the deliberation or signature of the Interpretation of the Judgment. *Id.* at n.1. Because Judge Eduardo Vio Grossi was unable to participate in the deliberation and signature of the Judgment, he did not take part in the deliberation for the Interpretation on the Judgment. *Id.*

Rhadys Abreu Blondet, Judge  
Alberto Pérez Pérez, Judge

Pablo Saavedra Alessandri, Secretary  
Emilia Segares Rodríguez, Deputy Secretary

### *B. Merits*

First, the Court ruled on the expiration date for the payments.<sup>456</sup> The Court addressed the discrepancy in the Judgment, in which the Court grants the State two years to make compensatory damage payments and pay costs and expenses but grants the State one year to pay consequential damages.<sup>457</sup> The Court clarified that the one year period was a mistake, and the correct time period to make compensation payments is actually two years.<sup>458</sup>

Second, the Court ruled on the payment and distribution methods for the compensatory and non-pecuniary damages, responding to four requests for clarification.<sup>459</sup> First, the representatives asked the Court to clarify whether the “date of death” referenced by the Court should be understood as the date of disappearance recorded in the *Diario Militar*.<sup>460</sup> The State clarified that the phrase “date of death” fails to consider compensation payments to the next of kin whose relatives remain disappeared and are not noted as “executed” in the *Diario Militar*.<sup>461</sup> As a result, the Court stated that the Judgment should specify that fifty percent of the compensation must be made to the spouse or companion of the victim from the date of their disappearance, rather than simply the date of death.<sup>462</sup>

Third, the representatives sought clarification as to payment distribution to victims’ parents and whether both parents receive equal shares, or if only one parent remains alive whether they get both parents’ share.<sup>463</sup> The Court reiterated that any compensation delivered to a victim’s parents must be divided equally between the parents, and if one parent is deceased then the remaining parent receives the deceased parent’s share.<sup>464</sup> If both parents are deceased, then the victim’s siblings re-

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456. *Id.* ¶ 19.

457. *Id.* ¶ 24.

458. *Id.* ¶¶ 24–25.

459. *Id.* ¶ 19, 27.

460. *Id.* ¶ 27(1).

461. *Id.* ¶ 65.

462. *Id.*

463. *Id.* ¶ 27(2).

464. *Id.* ¶ 67.

ceive the parents’ compensation in equal shares.<sup>465</sup>

Fourth, the representatives sought clarification as to whether the State’s civil legislation laws governed inheritance distribution or whether they needed to initiate inheritance proceedings.<sup>466</sup> The Court stated that the State must apply domestic inheritance laws, so the State should distribute compensation payments accordingly.<sup>467</sup>

Fifth, the representatives sought clarification as to whether certain next of kin may receive compensation even though they were not named or recognized as victims.<sup>468</sup> The Court stated in response that only those victims named in the Judgment may collect damages from the State.<sup>469</sup> However, the Court stated that the compensation of those next of kin who have died must be delivered to their heirs under State law.<sup>470</sup> For those victims’ next of kin who are not named in the Judgment but fall into a reparations category, those individuals have thirty days from the date of the Interpretation of the Judgment to authenticate their identity.<sup>471</sup>

## VI. COMPLIANCE AND FOLLOW-UP

**August 21, 2014:** The State did not comply with its obligation to provide a compliance report.<sup>472</sup> Instead, the State informed the Court that it did not accept the Judgment on the Merits.<sup>473</sup> The State alleged that the Court lacked jurisdiction over the State because the State became a party to the American Convention after the human rights abuses occurred.<sup>474</sup> The State also stated it did not accept responsibility for the forced disappearances.<sup>475</sup> Additionally, the State rejected the Court-ordered reparations because it alleged that only the State could determine what reparations it could afford.<sup>476</sup>

The Court rejected the State’s attempt to avoid its responsibility to

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465. *Id.*

466. *Id.* ¶ 27(3).

467. *Id.* ¶ 68.

468. *Id.* ¶ 27(4).

469. *Id.* ¶¶ 39–40, 53.

470. *Id.* ¶ 54.

471. *Id.* ¶ 57.

472. *Gudiel Álvarez et al. (“Diario Militar”) v. Guatemala, Monitoring Compliance with the Judgment of the Massacres of Río Negro and Gudiel Álvarez and Other Cases, Inter-Am. Ct. H.R., ¶ 1 (Aug. 21, 2014) (Available only in Spanish).*

473. *Id.* ¶ 2.

474. *Id.* ¶ 2(a).

475. *Id.* ¶ 2(b).

476. *Id.* ¶ 2(c).

provide compensation.<sup>477</sup> Under Article 68.1 of the American Convention, the State has a contractual obligation to abide by international norms and the terms in the Convention, and it must implement the Convention's provisions in good faith.<sup>478</sup> Once the Court issued its Judgment, the State became bound to its terms and must comply.<sup>479</sup> Furthermore, once the Court issued its Judgment, domestic law ceased to have effect regarding the case.<sup>480</sup> Accordingly, the State cannot oppose the Judgment and refuse to comply.<sup>481</sup> The State must therefore comply with the reparations included in the Judgment as soon as possible under its contractual obligations in Article 68.1 the American Convention.<sup>482</sup>

## VII. LIST OF DOCUMENTS

### *A. Inter-American Court*

#### 1. Preliminary Objections

[None]

#### 2. Decisions on Merits, Reparations and Costs

[Gudiel Álvarez et al. \("Diario Militar"\) v. Guatemala, Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 253 \(Nov. 20, 2012\).](#)

#### 3. Provisional Measures

[None]

#### 4. Compliance Monitoring

[Gudiel Álvarez et al. \("Diario Militar"\) v. Guatemala, Monitoring Compliance with the Judgment of the Massacres of Río Negro and Gudiel Álvarez and Other Cases, Inter-Am. Ct. H.R. \(Aug. 21, 2014\) \(Available only in Spanish\).](#)

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477. *Id.* ¶ 9.

478. *Id.* ¶¶ 5, 7, 10.

479. *Id.* ¶ 11.

480. *Id.* ¶ 15.

481. *Id.*

482. *Id.* ¶ 20.

5. Review and Interpretation of Judgment

[Gudiel Álvarez et al. \(“Diario Militar”\) v. Guatemala, Interpretation of the Judgment on the Merits, Reparations and Costs, Judgment, Inter-Am. Ct. H.R. \(ser. C\) No. 262 \(Aug. 19, 2013\).](#)

*B. Inter-American Commission*

1. Petition to the Commission

[Gudiel Álvarez et al. \(“Diario Militar”\) v. Guatemala, Petition No. 109/10, Admissibility, Report No. 109/10, Inter-Am. Comm’n H.R. \(Sept. 8, 2010\).](#)

2. Report on Admissibility

[Gudiel Álvarez et al. \(“Diario Militar”\) v. Guatemala, Admissibility and Merits, Report No. 116/10, Inter-Am. Comm’n H.R., Case No. 12.590 \(Oct. 22, 2010\).](#)

3. Provisional Measures

[None]

4. Report on Merits

[Gudiel Álvarez et al. \(“Diario Militar”\) v. Guatemala, Admissibility and Merits, Report No. 116/10, Inter-Am. Comm’n H.R., Case No. 12.590 \(Oct. 22, 2010\).](#)

5. Application to the Court

[Not Available]

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